IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 4TH JANUARY 2007 / 14TH POUSHA, 1928

Crl.MC.No. 33 of 2007()

SC.976/2006 of ADDL. SESSIONS COURT (ADHOC), KOLLAM

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PETITIONER: ACCUSED

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1. RAJESH KUMAR (IST ACCUSED),
S/O.IRANI, AMBIKA VILASAM,
MUTTOM, THEKKEMURI, EAST KALLADA,
KOLLAM.

2. JOY (2ND ACCUSED), S/O.PAULI,
NIRAPPUVILA VEEDU, MUTTOM, THEKKEMURI,
EAST KALLADA, KOLLAM.

BY ADV. SRI.SASTHAMANGALAM S. AJITHKUMAR
SRI.RENJITH B.MARAR
SRI.DILEEP P.PILLAI
SMT.LAKSHMI RENJITH

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.A. AKBAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 33 of 2007

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Dated this the 4th day of January, 2007

O R D E R

The petitioners face allegations, inter alia, under Section 308 r/w. 34 I.P.C. The case against the petitioners has been committed to the Court of Sessions and consequent to the absence of the petitioners the learned Judge has issued non-bailable warrants to procure the presence of the petitioners. The bail bonds executed were cancelled also. The learned counsel for the petitioners submits that the absence of the petitioners before the learned Sessions Court on 18.10.06 was on account of reasons beyond their control. They apprehend that if they surrender before the Judge, the learned Judge may not consider their applications on merits, in accordance with law and expeditiously. Therefore they pray that directions under Section 482 Cr.P.C. may be issued to the learned Sessions Judge to release them on bail.

2. It is certainly for the petitioners to appear before the learned Judge and explain to the learned Judge the circumstances under which they could not earlier appear before the learned Judge.

The learned Judge, needless to say, must consider such cause on merits and pass appropriate orders. I have no reason to assume that the learned Judge would not do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

3. This Crl.M.C. is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioners appear before the learned Sessions Judge and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Judge must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself unless there are compelling reasons.

(R. BASANT)
Judge

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